

**Fair Political Practices Commission**  
**MEMORANDUM**

**To:** Chairman Johnson and Commissioners Hodson, Huguenin, Leidigh, and Remy

**From:** Heather M. Rowan, Commission Counsel  
Scott Hallabrin, General Counsel

**Subject:** Adoption of New Regulation 18215.3 and new Form 803: Behested Payment Reporting

**Date:** February 5, 2009

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**Proposed Commission Action and Staff Recommendation:** Adopt Regulation 18215.3 and Form 803 concerning reporting behested payments as required in Section 82015(b)(2)(B)(iii).

**Background:** The Act excepts from the definition of “contributions” and “gifts” payments that are made at the behest of<sup>1</sup> an elected official or member of the California Public Utilities Commission<sup>2</sup> and are made principally for legislative, governmental, or charitable purposes. (Section 82015(b)(2)(B)). The official, however, is required to report these payments within 30 days if they meet or exceed \$5,000 in value from a single person in a calendar year, and continue to file similar reports within 30 days of receiving additional payments if the donor makes additional payments during the same calendar year. The Act offers specific instruction regarding a method for reporting behested payments. (*Id.*) State and local officials who report behested payments currently must develop their own form on an agency-by-agency basis.

**Reason for Proposal:** This regulation creates a uniform system for reporting behested payments and clarifies those items in the statute that officials must report on the form. Also, to facilitate providing the information to the public, staff believes the forms should be made available online at the local level, and state information made available on the Commission’s website. Staff also believes it is necessary that the Commission adopts a standardized form for public officials to report these payments.

Additionally, there have been questions regarding whether a public official must report the full amount of a behested payment when the payment is made on behalf of several officials. The regulation clarifies that each official reports the full amount and may indicate, on the corresponding form, that there are other officials reporting the same amount.

**Proposed Regulation:** To address the issues described above, staff proposes new Regulation 18215.3. The proposed regulation creates a uniform method of reporting behested

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<sup>1</sup> Regulation 18225.7 essentially defines “made at the behest of” to mean “made under the control of or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.” (*See* Regulation 18225.7(a).)

<sup>2</sup> As of January 1, 2009, the California Public Utilities Commission is included for purposes of Section 82015(b)(2)(B).

payments, increases accessibility of this information to the public, and clarifies points regarding how to report behested payments made at the behest of more than one official. The regulation also eliminates the need to itemize specific costs associated with holding an event at the official's behest, and instead permits the official to report the total cost of the event.

Under Section 82015(b)(2)(B)(iii), if an official behests a payment from a person or persons, the official must report if any payment or payments reach \$5,000 or more in a calendar year. Behested payments from any person that are made for any legislative, governmental, or charitable purpose must be reported once the payments reach the threshold amount, no matter if the payments are given for separate legislative, governmental, or charitable purposes.

In addition to delineating the reporting requirements, this regulation would also make the information regarding behested payments more accessible to the public by requiring the official's agency to post the payment information on the agency website within 30 days of the official's reaching the threshold amount. Within 30 days of receiving the form, the local agency would then send it to the officer with whom the elected officials from that agency file their campaign statements. Similarly, state agencies forward the report to the Commission within 30 days of receiving it. The California Public Utilities Commission would post the forms on its website.

The Regulation and Form reflect edits staff made in response to public comments.

If the Commission adopts Regulation 18215.3, staff also recommends that the Commission adopts Form 803, attached.

Attachment: Proposed Regulation 18215.3, Proposed Form 803.